

AMENDED IN ASSEMBLY AUGUST 19, 2003

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE MAY 12, 2003

AMENDED IN SENATE APRIL 30, 2003

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 21, 2003

---

---

**SENATE BILL**

**No. 602**

**Introduced by Senator Figueroa  
(Coauthors: Senators Kuehl and Romero)**

(Coauthors: Assembly Members *Chan, Corbett, Jackson, Koretz, Levine, Montanez, Pavley, and Reyes Reyes, Vargas, and Wiggins*)

February 20, 2003

---

---

An act to amend Sections 1785.11.1 and 1785.11.2 of, to add Section 1799.1b to, to add Title 1.81.2 (commencing with Section 1798.90.1) to Part 4 of Division 3 to, the Civil Code, to amend Sections 530.6 and 530.8 of the Penal Code, and to amend Section 2891 of the Public Utilities Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 602, as amended, Figueroa. Personal information.

(1) The Consumer Credit Reporting Agencies Act permits a consumer to place a security alert in his or her credit report by making a request in writing or by telephone to a consumer credit reporting agency.

This bill would provide for a penalty in an amount up to \$2,500 and reasonable attorneys' fees for a failure of a consumer credit reporting agency to place this security alert, as specified. The bill would also require a consumer credit reporting agency to provide additional notice to the consumer regarding the expiration date of that security alert, as specified.

(2) Existing law permits a consumer credit reporting agency to charge a reasonable fee to any consumer who elects to, among other things, freeze his or her credit report, with a specified exception.

This bill would limit this charge to no more than ~~a~~ \$10 for each freeze, removal of ~~the~~ a freeze, or temporary lift of ~~the~~ a freeze *for a period of time, or a fee of no more than \$12 for a temporary lift of a freeze for a specific party.*

(3) Existing law permits a business to use information data encoded on a driver's license for verification purposes ~~only~~.

This bill would prohibit the retention of this information, unless the business is required by law to record and retain that information, *or where the collection or disclosure of that information is required for specified purposes.* The bill would make a violation of these provisions a crime, thereby imposing a state-mandated local program.

(4) Existing law prohibits business entities, as defined, from making specified disclosures in relation to individual records.

This bill would require ~~a~~ *any credit card issuer that receives a change of address request from a cardholder who orders a replacement credit card, as specified, and any* business entity that provides ~~credit, installment, or~~ telephone accounts, as defined, ~~that~~ *and* receives a change of address request from ~~any individual who has an existing account with that entity~~ *an accountholder who orders new service,* to send specified change of address notices.

(5) Existing law provides a procedure to initiate an investigation of potential identity theft.

This bill would make a clarification within this provision.

(6) Existing law permits a person who discovers that he or she may be a victim of identity theft to request specified reports.

This bill would permit a cause of action for a failure of a person or entity to provide these reports, and would provide for penalties and reasonable attorneys' fees, among other things.

(7) Existing law prohibits telephone companies from making available specified information, without consent.

This bill would exempt therefrom certain information needed to pursue an identity theft investigation.

(8) *This bill would incorporate additional changes in Section 1785.11.1 of the Civil Code proposed by SB 25, that would become operative only if SB 25 and this bill are both chaptered and become effective January 1, 2004, and this bill is chaptered last.*

*The bill would also incorporate additional changes in Section 530.8 of the Penal Code proposed by SB 684, that would become operative only if SB 684 and this bill are both chaptered and become effective January 1, 2004, and this bill is chaptered last.*

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited as the  
2 Identity Theft Prevention and Assistance Act.

3 SEC. 2. Section 1785.11.1 of the Civil Code is amended to  
4 read:

5 1785.11.1. (a) A consumer may elect to place a security alert  
6 in his or her credit report by making a request in writing or by  
7 telephone to a consumer credit reporting agency. "Security alert"  
8 means a notice placed in a consumer's credit report, at the request  
9 of the consumer, that notifies a recipient of the credit report that  
10 the consumer's identity may have been used without the  
11 consumer's consent to fraudulently obtain goods or services in the  
12 consumer's name.

13 (b) A consumer credit reporting agency shall notify each  
14 person requesting consumer credit information with respect to a  
15 consumer of the existence of a security alert in the credit report of  
16 that consumer, regardless of whether a full credit report, credit  
17 score, or summary report is requested.



1 (c) Each consumer credit reporting agency shall maintain a  
2 toll-free telephone number to accept security alert requests from  
3 consumers 24 hours a day, seven days a week.

4 (d) The toll-free telephone number shall be included in any  
5 written disclosure by a consumer credit reporting agency to any  
6 consumer pursuant to Section 1785.15 and shall be printed in a  
7 clear and conspicuous manner.

8 (e) A consumer credit reporting agency shall place a security  
9 alert on a consumer's credit report no later than five business days  
10 after receiving a request from the consumer.

11 (f) The security alert shall remain in place for at least 90 days,  
12 and a consumer shall have the right to request a renewal of the  
13 security alert.

14 (g) A consumer credit reporting agency shall notify each  
15 consumer who has requested that a security alert be placed on his  
16 or her consumer credit report of the expiration date of the alert.

17 (h) Notwithstanding Section 1785.19, any consumer credit  
18 reporting agency that recklessly, willfully, or intentionally fails to  
19 place a security alert pursuant to this section shall be liable for a  
20 penalty in an amount of up to two thousand five hundred dollars  
21 (\$2,500) and reasonable attorneys' fees.

22 *SEC. 2.5. Section 1785.11.1 of the Civil Code is amended to*  
23 *read:*

24 1785.11.1. (a) A consumer may elect to place a security alert  
25 in his or her credit report by making a request in writing or by  
26 telephone to a consumer credit reporting agency. "Security alert"  
27 means a notice placed in a consumer's credit report, at the request  
28 of the consumer, that notifies a recipient of the credit report that  
29 the consumer's identity may have been used without the  
30 consumer's consent to fraudulently obtain goods or services in the  
31 consumer's name.

32 (b) A consumer credit reporting agency shall notify each  
33 person requesting consumer credit information with respect to a  
34 consumer of the existence of a security alert in the credit report of  
35 that consumer, regardless of whether a full credit report, credit  
36 score, or summary report is requested.

37 (c) Each consumer credit reporting agency shall maintain a  
38 toll-free telephone number to accept security alert requests from  
39 consumers 24 hours a day, seven days a week.

1 (d) The toll-free telephone number shall be included in any  
2 written disclosure by a consumer credit reporting agency to any  
3 consumer pursuant to Section 1785.15 and shall be printed in a  
4 clear and conspicuous manner.

5 (e) A consumer credit reporting agency shall place a security  
6 alert on a consumer's credit report no later than five business days  
7 after receiving a request from the consumer.

8 (f) The security alert shall remain in place for at least 90 days,  
9 and a consumer shall have the right to request a renewal of the  
10 security alert.

11 (g) *A consumer credit reporting agency shall notify each*  
12 *consumer who has requested that a security alert be placed on his*  
13 *or her consumer credit report of the expiration date of the alert.*

14 (h) *Any person who uses a consumer credit report in connection*  
15 *with the approval of credit based on an application for an*  
16 *extension of credit, or with the purchase, lease, or rental of goods*  
17 *or non-credit-related services and who receives notification of a*  
18 *security alert pursuant to subdivision (a) may not lend money,*  
19 *extend credit, or complete the purchase, lease, or rental of goods*  
20 *or non-credit-related services without taking reasonable steps to*  
21 *verify the consumer's identity, in order to ensure that the*  
22 *application for an extension of credit or for the purchase, lease, or*  
23 *rental of goods or noncredit related services is not the result of*  
24 *identity theft. If the consumer has placed a statement with the*  
25 *security alert in his or her file requesting that identity be verified*  
26 *by calling a specified telephone number, any person who receives*  
27 *that statement with the security alert in a consumer's file pursuant*  
28 *to subdivision (a) shall take reasonable steps to verify the identity*  
29 *of the consumer by contacting the consumer using the specified*  
30 *telephone number prior to lending money, extending credit, or*  
31 *completing the purchase, lease, or rental of goods or*  
32 *non-credit-related services. If a person uses a consumer credit*  
33 *report to facilitate the extension of credit or for another*  
34 *permissible purpose on behalf of a subsidiary, affiliate, agent,*  
35 *assignee, or prospective assignee, that person may verify a*  
36 *consumer's identity under this section in lieu of the subsidiary,*  
37 *affiliate, agent, assignee, or prospective assignee.*

38 (i) *For purposes of this section, "extension of credit" does not*  
39 *include an increase in the dollar limit of an existing open-end*  
40 *credit plan, as defined in Regulation Z issued by the Board of*

1 *Governors of the Federal Reserve System (12 C.F.R. 226.2), or any*  
2 *change to, or review of, an existing credit account.*

3 (j) *If reasonable steps are taken to verify the identity of the*  
4 *consumer pursuant to subdivision (b) of Section 1785.20.3, those*  
5 *steps constitute compliance with the requirements of this section,*  
6 *except that if a consumer has placed a statement including a*  
7 *telephone number with the security alert in his or her file, his or*  
8 *her identity shall be verified by contacting the consumer using that*  
9 *telephone number as specified pursuant to subdivision (g).*

10 (k) *Notwithstanding Section 1785.19, any consumer credit*  
11 *reporting agency that recklessly, willfully, or intentionally fails to*  
12 *place a security alert pursuant to this section shall be liable for a*  
13 *penalty in an amount of up to two thousand five hundred dollars*  
14 *(\$2,500) and reasonable attorneys' fees.*

15 SEC. 3. Section 1785.11.2 of the Civil Code is amended to  
16 read:

17 1785.11.2. (a) A consumer may elect to place a security  
18 freeze on his or her credit report by making a request in writing by  
19 certified mail to a consumer credit reporting agency. "Security  
20 freeze" means a notice placed in a consumer's credit report, at the  
21 request of the consumer and subject to certain exceptions, that  
22 prohibits the consumer credit reporting agency from releasing the  
23 consumer's credit report or any information from it without the  
24 express authorization of the consumer. If a security freeze is in  
25 place, information from a consumer's credit report may not be  
26 released to a third party without prior express authorization from  
27 the consumer. This subdivision does not prevent a consumer credit  
28 reporting agency from advising a third party that a security freeze  
29 is in effect with respect to the consumer's credit report.

30 (b) A consumer credit reporting agency shall place a security  
31 freeze on a consumer's credit report no later than five business  
32 days after receiving a written request from the consumer.

33 (c) The consumer credit reporting agency shall send a written  
34 confirmation of the security freeze to the consumer within 10  
35 business days and shall provide the consumer with a unique  
36 personal identification number or password to be used by the  
37 consumer when providing authorization for the release of his or  
38 her credit for a specific party or period of time.

39 (d) If the consumer wishes to allow his or her credit report to  
40 be accessed for a specific party or period of time while a freeze is

1 in place, he or she shall contact the consumer credit reporting  
2 agency, request that the freeze be temporarily lifted, and provide  
3 the following:

4 (1) Proper identification, as defined in subdivision (c) of  
5 Section 1785.15.

6 (2) The unique personal identification number or password  
7 provided by the credit reporting agency pursuant to subdivision  
8 (c).

9 (3) The proper information regarding the third party who is to  
10 receive the credit report or the time period for which the report  
11 shall be available to users of the credit report.

12 (e) A consumer credit reporting agency that receives a request  
13 from a consumer to temporarily lift a freeze on a credit report  
14 pursuant to subdivision (d), shall comply with the request no later  
15 than three business days after receiving the request.

16 (f) A consumer credit reporting agency may develop  
17 procedures involving the use of telephone, fax, the Internet, or  
18 other electronic media to receive and process a request from a  
19 consumer to temporarily lift a freeze on a credit report pursuant to  
20 subdivision (d) in an expedited manner.

21 (g) A consumer credit reporting agency shall remove or  
22 temporarily lift a freeze placed on a consumer's credit report only  
23 in the following cases:

24 (1) Upon consumer request, pursuant to subdivision (d) or (j).

25 (2) If the consumer's credit report was frozen due to a material  
26 misrepresentation of fact by the consumer. If a consumer credit  
27 reporting agency intends to remove a freeze upon a consumer's  
28 credit report pursuant to this paragraph, the consumer credit  
29 reporting agency shall notify the consumer in writing prior to  
30 removing the freeze on the consumer's credit report.

31 (h) If a third party requests access to a consumer credit report  
32 on which a security freeze is in effect, and this request is in  
33 connection with an application for credit or any other use, and the  
34 consumer does not allow his or her credit report to be accessed for  
35 that specific party or period of time, the third party may treat the  
36 application as incomplete.

37 (i) If a consumer requests a security freeze, the consumer credit  
38 reporting agency shall disclose the process of placing and  
39 temporarily lifting a freeze, and the process for allowing access to



1 information from the consumer's credit report for a specific party  
2 or period of time while the freeze is in place.

3 (j) A security freeze shall remain in place until the consumer  
4 requests that the security freeze be removed. A consumer credit  
5 reporting agency shall remove a security freeze within three  
6 business days of receiving a request for removal from the  
7 consumer, who provides both of the following:

8 (1) Proper identification, as defined in subdivision (c) of  
9 Section 1785.15.

10 (2) The unique personal identification number or password  
11 provided by the credit reporting agency pursuant to subdivision  
12 (c).

13 (k) A consumer credit reporting agency shall require proper  
14 identification, as defined in subdivision (c) of Section 1785.15, of  
15 the person making a request to place or remove a security freeze.

16 (l) The provisions of this section do not apply to the use of a  
17 consumer credit report by any of the following:

18 (1) A person or entity, or a subsidiary, affiliate, or agent of that  
19 person or entity, or an assignee of a financial obligation owing by  
20 the consumer to that person or entity, or a prospective assignee of  
21 a financial obligation owing by the consumer to that person or  
22 entity in conjunction with the proposed purchase of the financial  
23 obligation, with which the consumer has or had prior to  
24 assignment an account or contract, including a demand deposit  
25 account, or to whom the consumer issued a negotiable instrument,  
26 for the purposes of reviewing the account or collecting the  
27 financial obligation owing for the account, contract, or negotiable  
28 instrument. For purposes of this paragraph, "reviewing the  
29 account" includes activities related to account maintenance,  
30 monitoring, credit line increases, and account upgrades and  
31 enhancements.

32 (2) A subsidiary, affiliate, agent, assignee, or prospective  
33 assignee of a person to whom access has been granted under  
34 subdivision (d) of Section 1785.11.2 for purposes of facilitating  
35 the extension of credit or other permissible use.

36 (3) Any state or local agency, law enforcement agency, trial  
37 court, or private collection agency acting pursuant to a court order,  
38 warrant, or subpoena.



(4) A child support agency acting pursuant to Chapter 2 of Division 17 of the Family Code or Title IV-D of the Social Security Act (42 U.S.C. et seq.).

(5) The State Department of Health Services or its agents or assigns acting to investigate Medi-Cal fraud.

(6) The Franchise Tax Board or its agents or assigns acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory responsibilities.

(7) The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act.

(8) Any person or entity administering a credit file monitoring subscription service to which the consumer has subscribed.

(9) Any person or entity for the purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

(m) This act does not prevent a consumer credit reporting agency from charging a fee of no more than ten dollars (\$10) to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze *for a period of time, or a fee of no more than twelve dollars (\$12) for a temporary lift of a freeze for a specific party*, regarding access to a consumer credit report, except that a consumer credit reporting agency may not charge a fee to a victim of identity theft who has submitted a valid police report or valid Department of Motor Vehicles investigative report that alleges a violation of Section 530.5 of the Penal Code.

SEC. 4. Title 1.81.2 (commencing with Section 1798.90.1) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.81.2. CONFIDENTIALITY OF DRIVER'S  
LICENSE INFORMATION

~~1798.90.1. (a) Any business may swipe a driver's license in any electronic device for purposes of verification of age and authentication of the driver's license, but may not retain that information for any other purpose, unless the business is required by law to record and retain that information.~~

1798.90.1. (a) Any business may swipe a driver's license or identification card issued by the Department of Motor Vehicles in any electronic device to verify age or the authenticity of the driver's

1 *license or identification card, to comply with a legal requirement*  
2 *to record and retain that information, or to collect or disclose*  
3 *personal information that is required for reporting, investigating,*  
4 *or preventing fraud, abuse, or material misrepresentation. A*  
5 *business may not retain or use any of the information obtained by*  
6 *that electronic means for any purpose other than as provided*  
7 *herein.*

8 (b) As used in this section, “business” means a proprietorship,  
9 partnership, corporation, or any other form of commercial  
10 enterprise.

11 (c) A violation of this section constitutes a misdemeanor  
12 punishable by imprisonment in a county jail for no more than one  
13 year, or by a fine of no more than ten thousand dollars (\$10,000),  
14 or by both.

15 SEC. 5. Section 1799.1b is added to the Civil Code, to read:

16 ~~1799.1b. (a) Any business entity that provides credit,~~  
17 ~~installment, or telephone accounts that receives a change of~~  
18 ~~address request from any individual that has an existing credit,~~  
19 ~~installment, or telephone account with that entity shall send within~~  
20 ~~30 days of receipt of that request a change of address notification~~  
21 ~~to the previous address of record. If that business entity reasonably~~  
22 ~~believes that it has the current telephone number or e-mail address~~  
23 ~~for that individual, it may provide the change of address~~  
24 ~~notification via e-mail or telephone communication. The~~  
25 ~~notifications may not contain the consumer’s name, account~~  
26 ~~number, social security number, or other personal identifying~~  
27 ~~information.~~

28 ~~(b)~~

29 *1799.1b. (a) Any credit card issuer that receives a change of*  
30 *address request, other than for a correction of a typographical*  
31 *error, from a cardholder who orders a replacement credit card*  
32 *within 60 days before or after that request is received shall send to*  
33 *that cardholder a change of address notification that is addressed*  
34 *to the cardholder at the cardholder’s previous address of record.*  
35 *If the replacement credit card is requested prior to the effective*  
36 *date of the change of address, the notification shall be sent within*  
37 *30 days of the change of address request. If the replacement credit*  
38 *card is requested after the effective date of the change of address,*  
39 *the notification shall be sent within 30 days of the request for the*  
40 *replacement credit card.*

(b) Any business entity that provides telephone accounts that receives a change of address request, other than for a correction of a typographical error, from an accountholder who orders new service, shall send to that accountholder a change of address notification that is addressed to the accountholder at the accountholder's previous address of record. The notification shall be sent within 30 days of the request for new service.

(c) The notice required pursuant to subdivision (a) or (b) may be given by telephone or e-mail communication if the credit card issuer or business entity that provides telephone accounts reasonably believes that it has the current telephone number or e-mail address for the accountholder or cardholder who has requested a change of address. If the notification is in writing it may not contain the consumer's account number, social security number, or other personal identifying information, but may contain the consumer's name, previous address, and new address of record.

(d) A credit card issuer or a business entity that provides telephone accounts shall not be required to send a change of address notification when a change of address request is made in person by a consumer who has presented valid identification, or is made by telephone and the requester has provided a unique alpha-numeric password.

(e) The following definitions shall apply to this section:

(1) "Credit account" has the same meaning as "credit card," as defined in subdivision (a) of Section 1747.02.

~~(2) "Installment account" has the same meaning as that provided in Section 1802.7.~~

~~(3)~~

(2) "Telephone account" means an account with a telephone corporation, as defined in Section 234 of the Public Utilities Code.

SEC. 6. Section 530.6 of the Penal Code is amended to read:

530.6. (a) A person who has learned or reasonably suspects that his or her personal identifying information has been unlawfully used by another, as described in subdivision (a) of Section 530.5, may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over his or her actual residence, which shall take a police report of the matter, provide the complainant with a copy of that report, and begin an investigation of the facts. If the suspected crime was

1 committed in a different jurisdiction, the local law enforcement  
2 agency may refer the matter to the law enforcement agency where  
3 the suspected crime was committed for further investigation of the  
4 facts.

5 (b) A person who reasonably believes that he or she is the  
6 victim of identity theft may petition a court, or the court, on its own  
7 motion or upon application of the prosecuting attorney, may move,  
8 for an expedited judicial determination of his or her factual  
9 innocence, where the perpetrator of the identity theft was arrested  
10 for, cited for, or convicted of a crime under the victim's identity,  
11 or where a criminal complaint has been filed against the  
12 perpetrator in the victim's name, or where the victim's identity has  
13 been mistakenly associated with a record of criminal conviction.  
14 Any judicial determination of factual innocence made pursuant to  
15 this section may be heard and determined upon declarations,  
16 affidavits, police reports, or other material, relevant, and reliable  
17 information submitted by the parties or ordered to be part of the  
18 record by the court. Where the court determines that the petition  
19 or motion is meritorious and that there is no reasonable cause to  
20 believe that the victim committed the offense for which the  
21 perpetrator of the identity theft was arrested, cited, convicted, or  
22 subject to a criminal complaint in the victim's name, or that the  
23 victim's identity has been mistakenly associated with a record of  
24 criminal conviction, the court shall find the victim factually  
25 innocent of that offense. If the victim is found factually innocent,  
26 the court shall issue an order certifying this determination.

27 (c) After a court has issued a determination of factual  
28 innocence pursuant to this section, the court may order the name  
29 and associated personal identifying information contained in court  
30 records, files, and indexes accessible by the public deleted, sealed,  
31 or labeled to show that the data is impersonated and does not reflect  
32 the defendant's identity.

33 (d) A court that has issued a determination of factual innocence  
34 pursuant to this section may at any time vacate that determination  
35 if the petition, or any information submitted in support of the  
36 petition, is found to contain any material misrepresentation or  
37 fraud.

38 (e) The Judicial Council of California shall develop a form for  
39 use in issuing an order pursuant to this section.

40 SEC. 7. Section 530.8 of the Penal Code is amended to read:



530.8. (a) If a person discovers that an application in his or her name for a loan, credit line or account, credit card, charge card, public utility service, or commercial mobile radio service has been filed with any person or entity by an unauthorized person, or that an account in his or her name has been opened with a bank, trust company, savings association, credit union, public utility, or commercial mobile radio service provider by an unauthorized person, then, upon presenting to the person or entity with which the application was filed or the account was opened a copy of a police report prepared pursuant to Section 530.6 and identifying information in the categories of information that the unauthorized person used to complete the application or to open the account, the person, or a law enforcement officer specified by the person, shall be entitled to receive information related to the application or account, including a copy of the unauthorized person's application or application information and a record of transactions or charges associated with the application or account. Upon request by the person in whose name the application was filed or in whose name the account was opened, the person or entity with which the application was filed shall inform him or her of the categories of identifying information that the unauthorized person used to complete the application or to open the account. The person or entity with which the application was filed or the account was opened shall provide copies of all forms and information required by this section, without charge, within 10 business days of receipt of the person's request and submission of the required copy of the police report and identifying information.

(b) Any request made pursuant to subdivision (a) to a person or entity subject to the provisions of Section 2891 of the Public Utilities Code shall be in writing and the requesting person shall be deemed to be the subscriber for purposes of that section.

(c) (1) Before a person or entity provides copies to a law enforcement officer pursuant to subdivision (a), the person or entity may require the requesting person to submit a signed and dated statement by which the requesting person does all of the following:

(A) Authorizes disclosure for a stated period.

(B) Specifies the name of the agency or department to which the disclosure is authorized.

1 (C) Identifies the types of records that the requesting person  
2 authorizes to be disclosed.

3 (2) The person or entity shall include in the statement to be  
4 signed by the requesting person a notice that the requesting person  
5 has the right at any time to revoke the authorization.

6 (d) (1) A failure to produce records pursuant to subdivision (a)  
7 shall be addressed by the court in the jurisdiction in which the  
8 victim resides or in which the request for information was issued.  
9 At the victim's request, the Attorney General, the district attorney,  
10 or the prosecuting city attorney may file a petition to compel the  
11 attendance of the person or entity in possession of the records, as  
12 described in subdivision (a), and order the production of the  
13 requested records to the court. The petition shall contain a  
14 declaration from the victim stating when the request for  
15 information was made, that the information requested was not  
16 provided, and what response, if any, was made by the person or  
17 entity. The petition shall also contain copies of the police report  
18 prepared pursuant to Section 530.6 and the request for information  
19 made pursuant to this section upon the person or entity in  
20 possession of the records, as described in subdivision (a), and these  
21 two documents shall be kept confidential by the court. The petition  
22 and copies of the police report and the application shall be served  
23 upon the person or entity in possession of the records, as described  
24 in subdivision (a). The court shall hold a hearing on the petition no  
25 later than 10 court days after the petition is served and filed. The  
26 court shall order the release of records to the victim as required  
27 pursuant to this section.

28 (2) In addition to any other civil remedy available, the victim  
29 may bring a civil action against the entity for damages, injunctive  
30 relief or other equitable relief, and a penalty of one hundred dollars  
31 (\$100) per day of noncompliance, plus reasonable attorneys' fees.

32 (e) As used in this section, "application" includes the addition  
33 of authorized users to an existing account or any other changes  
34 made to an existing account.

35 (f) As used in this section, "law enforcement officer" means  
36 a peace officer as defined by Section 830.1 of the Penal Code.

37 (g) As used in this section, "commercial mobile radio service"  
38 means "commercial mobile radio service" as defined in section  
39 20.3 of Title 47 of the Code of Federal Regulations.

40 SEC. 7.5. Section 530.8 of the Penal Code is amended to read:



1 530.8. (a) If a person discovers that an application in his or  
2 her name for a loan, credit line or account, credit card, charge card,  
3 public utility service, *mail receiving or forwarding service, office*  
4 *or desk space rental service*, or commercial mobile radio service  
5 has been filed with any person or entity by an unauthorized person,  
6 or that an account in his or her name has been opened with a bank,  
7 trust company, savings association, credit union, public utility,  
8 *mail receiving or forwarding service, office or desk space rental*  
9 *service*, or commercial mobile radio service provider by an  
10 unauthorized person, then, upon presenting to the person or entity  
11 with which the application was filed or the account was opened a  
12 copy of a police report prepared pursuant to Section 530.6 and  
13 identifying information in the categories of information that the  
14 unauthorized person used to complete the application or to open  
15 the account, the person, or a law enforcement officer specified by  
16 the person, shall be entitled to receive information related to the  
17 application or account, including a copy of the unauthorized  
18 person's application or application information and a record of  
19 transactions or charges associated with the application or account.  
20 Upon request by the person in whose name the application was  
21 filed or in whose name the account was opened, the person or  
22 entity with which the application was filed shall inform him or her  
23 of the categories of identifying information that the unauthorized  
24 person used to complete the application or to open the account. The  
25 person or entity with which the application was filed or the account  
26 was opened shall provide copies of all ~~forms and information~~  
27 *paper records, records of telephone applications or*  
28 *authorizations, or records of electronic applications or*  
29 *authorizations* required by this section, without charge, within 10  
30 business days of receipt of the person's request and submission of  
31 the required copy of the police report and identifying information.  
32 (b) Any request made pursuant to subdivision (a) to a person or  
33 entity subject to the provisions of Section 2891 of the Public  
34 Utilities Code shall be in writing and the requesting person shall  
35 be deemed to be the subscriber for purposes of that section.  
36 (c) (1) Before a person or entity provides copies to a law  
37 enforcement officer pursuant to subdivision (a), the person or  
38 entity may require the requesting person to submit a signed and  
39 dated statement by which the requesting person does all of the  
40 following:



1 (A) Authorizes disclosure for a stated period.

2 (B) Specifies the name of the agency or department to which  
3 the disclosure is authorized.

4 (C) Identifies the types of records that the requesting person  
5 authorizes to be disclosed.

6 (2) The person or entity shall include in the statement to be  
7 signed by the requesting person a notice that the requesting person  
8 has the right at any time to revoke the authorization.

9 (d) ~~As used in this section, “law enforcement officer” means~~  
10 ~~a peace officer as defined by Section 830.1 of the Penal Code~~

11 *(1) A failure to produce records pursuant to subdivision (a) shall*  
12 *be addressed by the court in the jurisdiction in which the victim*  
13 *resides or in which the request for information was issued. At the*  
14 *victim’s request, the Attorney General, the district attorney, or the*  
15 *prosecuting city attorney may file a petition to compel the*  
16 *attendance of the person or entity in possession of the records, as*  
17 *described in subdivision (a), and order the production of the*  
18 *requested records to the court. The petition shall contain a*  
19 *declaration from the victim stating when the request for*  
20 *information was made, that the information requested was not*  
21 *provided, and what response, if any, was made by the person or*  
22 *entity. The petition shall also contain copies of the police report*  
23 *prepared pursuant to Section 530.6 and the request for information*  
24 *made pursuant to this section upon the person or entity in*  
25 *possession of the records, as described in subdivision (a), and*  
26 *these two documents shall be kept confidential by the court. The*  
27 *petition and copies of the police report and the application shall*  
28 *be served upon the person or entity in possession of the records, as*  
29 *described in subdivision (a). The court shall hold a hearing on the*  
30 *petition no later than 10 court days after the petition is served and*  
31 *filed. The court shall order the release of records to the victim as*  
32 *required pursuant to this section.*

33 *(2) In addition to any other civil remedy available, the victim*  
34 *may bring a civil action against the entity for damages, injunctive*  
35 *relief or other equitable relief, and a penalty of one hundred*  
36 *dollars (\$100) per day of noncompliance, plus reasonable*  
37 *attorneys’ fees.*

38 (e) ~~As used in this section, “commercial”~~ For the purposes of  
39 this section, the following terms have the following meanings:

1     (1) “*Application*” means a new application for credit or  
2     service, the addition of authorized users to an existing account, the  
3     renewal of an existing account, or any other changes made to an  
4     existing account.

5     (2) “*Commercial mobile radio service*” means “commercial  
6     mobile radio service” as defined in section 20.3 of Title 47 of the  
7     Code of Federal Regulations.

8     (3) “*Law enforcement officer*” means a peace officer as  
9     defined by Section 830.1.

10    SEC. 8. Section 2891 of the Public Utilities Code is amended  
11    to read:

12    2891. (a) No telephone or telegraph corporation shall make  
13    available to any other person or corporation, without first  
14    obtaining the residential subscriber’s consent, in writing, any of  
15    the following information:

16    (1) The subscriber’s personal calling patterns, including any  
17    listing of the telephone or other access numbers called by the  
18    subscriber, but excluding the identification to the person called of  
19    the person calling and the telephone number from which the call  
20    was placed, subject to the restrictions in Section 2893, and also  
21    excluding billing information concerning the person calling which  
22    federal law or regulation requires a telephone corporation to  
23    provide to the person called.

24    (2) The residential subscriber’s credit or other personal  
25    financial information, except when the corporation is ordered by  
26    the commission to provide this information to any electrical, gas,  
27    heat, telephone, telegraph, or water corporation, or centralized  
28    credit check system, for the purpose of determining the  
29    creditworthiness of new utility subscribers.

30    (3) The services which the residential subscriber purchases  
31    from the corporation or from independent suppliers of information  
32    services who use the corporation’s telephone or telegraph line to  
33    provide service to the residential subscriber.

34    (4) Demographic information about individual residential  
35    subscribers, or aggregate information from which individual  
36    identities and characteristics have not been removed.

37    (b) Any residential subscriber who gives his or her written  
38    consent for the release of one or more of the categories of personal  
39    information specified in subdivision (a) shall be informed by the  
40    telephone or telegraph corporation regarding the identity of each

1 person or corporation to whom the information has been released,  
2 upon written request. The corporation shall notify every  
3 residential subscriber of the provisions of this subdivision  
4 whenever consent is requested pursuant to this subdivision.

5 (c) Any residential subscriber who has, pursuant to subdivision  
6 (b), given written consent for the release of one or more of the  
7 categories of personal information specified in subdivision (a)  
8 may rescind this consent upon submission of a written notice to the  
9 telephone or telegraph corporation. The corporation shall cease to  
10 make available any personal information about the subscriber,  
11 within 30 days following receipt of notice given pursuant to this  
12 subdivision.

13 (d) This section does not apply to any of the following:

14 (1) Information provided by residential subscribers for  
15 inclusion in the corporation's directory of subscribers.

16 (2) Information customarily provided by the corporation  
17 through directory assistance services.

18 (3) Postal ZIP Code information.

19 (4) Information provided under supervision of the commission  
20 to a collection agency by the telephone corporation exclusively for  
21 the collection of unpaid debts.

22 (5) Information provided to an emergency service agency  
23 responding to a 911 telephone call or any other call communicating  
24 an imminent threat to life or property.

25 (6) Information provided to a law enforcement agency in  
26 response to lawful process.

27 (7) Information which is required by the commission pursuant  
28 to its jurisdiction and control over telephone and telegraph  
29 corporations.

30 (8) Information transmitted between telephone or telegraph  
31 corporations pursuant to the furnishing of telephone service  
32 between or within service areas.

33 (9) Information required to be provided by the corporation  
34 pursuant to rules and orders of the commission or the Federal  
35 Communications Commission regarding the provision over  
36 telephone lines by parties other than the telephone and telegraph  
37 corporations of telephone or information services.

38 (10) The name and address of the lifeline customers of a  
39 telephone corporation provided by that telephone corporation to  
40 a public utility for the sole purpose of low-income ratepayer

1 assistance outreach efforts. The telephone corporation receiving  
2 the information request pursuant to this paragraph may charge the  
3 requesting utility for the cost of the search and release of the  
4 requested information. The commission, in its annual low-income  
5 ratepayer assistance report, shall assess whether this information  
6 has been helpful in the low-income ratepayer assistance outreach  
7 efforts.

8 (11) Information provided in response to a request pursuant to  
9 subdivision (a) of Section 530.8 of the Penal Code.

10 (e) Every violation is a grounds for a civil suit by the aggrieved  
11 residential subscriber against the telephone or telegraph  
12 corporation and its employees responsible for the violation.

13 (f) For purposes of this section, “access number” means a  
14 telex, teletex, facsimile, computer modem, or any other code  
15 which is used by a residential subscriber of a telephone or  
16 telegraph corporation to direct a communication to another  
17 subscriber of the same or another telephone or telegraph  
18 corporation.

19 SEC. 9. *Section 2.5 of this bill incorporates amendments to*  
20 *Section 1785.11.1 of the Civil Code proposed by both this bill and*  
21 *SB 25. It shall only become operative if (1) both bills are enacted*  
22 *and become effective on or before January 1, 2004, (2) each bill*  
23 *amends Section 1785.11.1 of the Civil Code, and (3) this bill is*  
24 *enacted after SB 25, in which case Section 2 of this bill shall not*  
25 *become operative.*

26 SEC. 10. *Section 7.5 of this bill incorporates amendments to*  
27 *Section 530.8 of the Penal Code proposed by both this bill and SB*  
28 *684. It shall only become operative if (1) both bills are enacted and*  
29 *become effective on or before January 1, 2004, (2) each bill*  
30 *amends Section 530.8 of the Penal Code, and (3) this bill is*  
31 *enacted after SB 684, in which case Section 7 of this bill shall not*  
32 *become operative.*

33 SEC. 11. No reimbursement is required by this act pursuant  
34 to Section 6 of Article XIII B of the California Constitution  
35 because the only costs that may be incurred by a local agency or  
36 school district will be incurred because this act creates a new crime  
37 or infraction, eliminates a crime or infraction, or changes the  
38 penalty for a crime or infraction, within the meaning of Section  
39 17556 of the Government Code, or changes the definition of a



- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

O

